

Internal Revenue Service

Department of the Treasury

Director

EO Examinations

Commerce Street, Dallas, TX 75242

Date: DEC 18 2000

Person to Contact:

Contact Telephone Number:

Taxpayer Identification Number:

In Reply Refer to:

Dear Sir or Madam:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

You were incorporated on [REDACTED] Your original purposes were to promote the art and science of auto racing and any and all lawful purposes. The purpose was amended after application for exemption under section 501(c)(3) to meet the organizational test of section 501(c)(3) and your stated purposes now are exclusively charitable, religious, educational, and scientific.

According to the information on your application you want to promote the art and science of racing in [REDACTED]. You want to use racing as a positive replacement to negative choices such as drug and alcohol use, school dropout prevention, crime-related activities and other negative behaviors. You want to show the community that racing is a positive sport that will foster discipline, etc.

Your first event was a [REDACTED] for the purpose of promoting racing and auto safety through the showcasing of cars.

On [REDACTED], you intend to hold your first annual car race, [REDACTED], to be held at [REDACTED]. You state this event will raise funds for scholarships, attract members, educate the community on the sport of drag racing, and provide an opportunity for both adults and children to participate in various categories. You intend to hold this race every November.

You will hold a car show every [REDACTED] to showcase specialty vehicles, to heighten the awareness of drag racing and to raise funds for your scholarship program. At the show there will be booths on car safety, mini technical workshops on handling of car parts, safe race driving with emphasis on kids 15 and under. Displayers of cars will be charged a fee and admission will be free to the public.

You will display racing cars at three local inner-city schools and speak to the youth on the sport of racing, on driving safety, on the value of staying in school and on alternatives to a "street life". Youths ages 8 to 15 years will be informed of the opportunity to participate in your junior racing program.

Someone from your organization will travel once a year to visit other similar associations to keep abreast of the trade and how to better serve the community. You intend to promote racing nationwide as a positive sport.

Support for your activities will be from membership dues, Entry Fees from the [redacted] and Entry Fees from the [redacted]

Membership is \$ [redacted] for adults with a [redacted] application fee and benefits include:

- Discounts on purchases
- Technical assistance on car tuning equipment
- Travel paid for members to participate in racing events
- Organizational and leadership development
- Team jacket, shirt and vehicle decal

Junior membership is only \$ [redacted] and provides free junior racing for youths 12 and under.

Proposed budgets for the years [redacted] show that over [redacted]% of your income will be from [redacted]. At least [redacted]% of your income is expensed for [redacted] and purses.

In the year [redacted] you show the highest amount of expense to sponsor junior dragsters, and this amount is only [redacted]% of your income for that year. Scholarship expense runs from 0% to a high [redacted]% of your income.

As of the date of application, you had [redacted] adult members and [redacted] junior members.

Adult members traveling to out-of-state events, pre-scheduled by the Board of Directors, will receive funds toward expenses if they tow a vehicle for participation. Junior entrants will receive transportation and entry fees.

The advertisement for the [redacted] lists six races for adults and one for juniors. The first place prizes for adults appear to be \$ [redacted] to \$ [redacted]. The prize for the junior race is \$ [redacted] bond.

The program lists a 2-hour Vehicle & Trailer Safety Seminar and a 1-1/2 hour Automobile Preventative Maintenance & Detailing Seminar on Saturday and a full day of racing.

Section 501(c)(3) of the Code provides exemption for:

"Corporations...organized and operated exclusively for religious, charitable...or educational purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual..."

Section 501(c)(3)-1 of the regulations provides, in part, as follows:

"(a)(1) In order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt."

"(c)(1) Primary activities. An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

"(c)(2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals."

In Better Business Bureau of Washington D.C. v. United States 326 U.S. 279 (1945), the Court held that a better business bureau was not exclusively educational. Its activities were in part aimed at promoting the prosperity and standing of the business community, even though there was also benefit to the public. The court stated that, in order to fall within the claimed exemption, an organization must be devoted to exempt purposes exclusively. The presence of a single nonexempt purpose, if substantial in nature, will destroy exemption regardless of the number and importance of truly exempt purposes.

In Lions Associated Drag Strip, a Corporation and Harbor Area Lions, Inc., a Corporation, Plaintiffs v. United States of America, Defendants US Tax Case 13 AFTR 2d 19623, the Court held that the organization was exempt under section 501(c)(4) and not 501(c)(3). This organization operated a drag strip on Saturdays and/or Sundays for youths. Spectators were comprised of approximately 75% juveniles and 25% adults, and most of the adults were friends and relatives of the participating drivers. Admission was \$1.00 and free tickets were given to high school students. Participants were charged \$1.00 to race.

Two to three times a year a special event was held at the drag strip involving one or more nationally known drivers with their specially manufactured vehicles, and such drivers were paid for their appearance. The income produced by these special events was used to relieve the financial pressure of the drag strip and to pay its liabilities.

Winners were awarded trophies, war bonds, and small cash awards. Tools were made available to the drivers to work on the cars. Each participating driver had to undergo

rigorous safety inspection and had to follow the rules and regulation of the drag strip and the National Hot Rod Association.

The operation of the drag strip was successful in substantially reducing drag racing on the streets. The organization was operated for the promotion of social welfare and exempt under section 501(c)(4) of the Code.

On the basis of the information submitted, we have concluded that you are not operated exclusively for one or more purposes as specified in section 501(c)(3) of the Code. Like the Better Business Bureau case, your activities are not exclusively educational or charitable. Although you have some educational activity in schools and you have some junior members in your organization, your primary purpose is the conduct of [REDACTED]. There are more races for adults and adult winners of these races receive substantially higher prizes than the youths receive. You speak to youths at schools on the sport of racing and the importance of staying in school, but this is not your primary purpose. The annual car show to promote awareness of drag racing and raise funds for scholarships may be educational but it does not raise much for scholarships. Like this organization, you have substantial non-exempt purposes.

Your primary income and expense is from the conduct of the race, and only a minimal amount of your funds are used for junior activities and scholarships. Your proposed budgets show [REDACTED]% of your income expensed for [REDACTED] and prizes in the year [REDACTED] and [REDACTED]% of your income is used for [REDACTED] and prizes in [REDACTED] and [REDACTED]. In [REDACTED] only [REDACTED]% of your income will be spent to support junior racers and none will be spent on scholarships. In [REDACTED] and [REDACTED] you plan to spend [REDACTED]% to [REDACTED]% on juniors and 4% to 5% on scholarships.

You are not like the organization in the Lions Associate Drag Strip that ran a drag strip for juveniles and promoted social welfare and was exempt under section 501(c)(4), not 501(c)(3). The Louisiana Drag Classic is conducted like a for-profit activity for adults and the large purses are for the adult winners just like any other for-profit drag race. The fact that you charge less for membership for youths and include some youngsters in your organization, and you provide a few hours of instruction at the races does not change the primary purpose of the organization. You are not operated exclusively for charitable or educational purposes, and you are not even operated to promote social welfare like the Lions Associate Drag Strip.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, and you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under section 170(c)(2) of the Code.

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone who is not one of your principal officers will represent you, that person will need to file a power of attorney or tax information authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) provides in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted that do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely

Steven T. Miller

Steven T. Miller
Director, Exempt Organizations

Enclosure: Publication 892

cc: [REDACTED]